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C O N F I D E N T I A L BUCHAREST 000519

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TAGS: [MARR](#) [MOPS](#) [PREL](#) [PGOV](#) [RO](#)  
SUBJECT: MISTAKES WERE MADE -- ROMANIAN PARLIAMENT CAPS US  
TROOPS UNDER DCA

Classified By: DCM Mark A. Taplin for reasons 1.4(b) and (d)

11. (SBU) A joint session of Parliament on May 2 passed a decision that not only approved the entry and stationing of U.S. military forces on Romanian territory but unexpectedly also capped at 3,000 the total number of U.S. troops for the ten-year duration of the December 2005 U.S.-Romanian Defense Cooperation Agreement (DCA). The decision did give the President of Romania discretion to permit an additional 500 U.S. troops for a period no greater than 90 days, &at the request of the Prime Minister.<sup>8</sup> The legislative decision was characterized as a &formality<sup>8</sup> in the press, and hailed as an example of Romania's support for its bilateral relations with the U.S.

12. (C) In a May 7 discussion with DCM and Polmiloff, MOD State Secretary Corneliu Dobritoiu and MoD Chief of Staff Brig. General Angelescu, confirmed that Parliament had passed a decision that was hastily drafted by MOD, not thoroughly vetted throughout the bureaucracy, and not coordinated with U.S. officials. Dobritoiu underscored that the mistake was administrative and procedural, but not politically motivated. Other Embassy sources also described a rather hasty process for drafting and securing passage of this legislation to address a problem MFA lawyers had raised as early as last fall over a "shortcoming" in the DCA.

13. (C) The May 2 Parliamentary decision was initiated by a memorandum to Interim-President Nicolae Vacaroiu from Defense Minister Teodor Melescanu on April 25, (Note: President Basescu was suspended from office on April 20. End note.). The memorandum focused on the implementation of the DCA that under the Romanian Constitution and National Defense Law required Parliament to approve the stationing and transit of foreign troops in Romania. The same day, Vacariou forwarded to the Parliament draft language that was extracted word-for-word from Melescanu's memo (and initialed by FM Adrian Cioroianu, Justice Minister Tudor Chiuariu and PM Calin Popescu-Tariceanu). The subsequent draft legislative bill was not scheduled originally for Parliament's consideration on May 2, but was entered on the docket, raised and passed within about two hours of its formal submission, according to PSD MP Viorel Hrebenciuc (the vote was overwhelmingly in favor, with 257 voting for, 29 abstentions and a single vote against -- the Parliamentary representative of Romania's Lipovan Russian minority).

14. (C) Upon learning of the parliamentary vote, Polmiloff confirmed on May 2 that key officials like MoD's Dragos Ghercioiu, Director General for Defense Policy and Planning, and MFA's Ovidiu Dranga, Director General for Political Affairs had known nothing about the bill, including either its genesis or its contents. Former MFA DG for Strategic Policy Victor Mikula, now the PM's acting Chief of Staff,

told Polcons on May 2 that the legislative decision was merely a "formality," and the troop cap -- derived from a simple doubling of what was briefed to MOD officials on the proposed composition of the US battalion that would be using the Forward Operations Facilities in Constanta (JTF-East) -- was benign, since it took away the necessity for a case-by-case request for parliamentary approval of any entrance, soujourn, or transit of foreign military units into Romania. He said that the parliamentary "cap" was a temporary expedient in the absence of the Implementing Arrangements, adding that "when the IAs are approved, the cap comes off."

¶5. (C) In the May 7 meeting, Dobritoiu and Angelescu confirmed that the 3,000 troop &cap8 was derived from a March 2006 USAFE power point brief on the proposed size of US forces to be stationed in Constanta. They acknowledged that although the new law puts limits on the size and thus the prospects for U.S. training exercises at JTF-East, the intent was to address quickly the requirement for legislative approval for U.S. troops8 to enter and transit8 Romania, vice the &access8 granted under the DCA. (Note: U.S. Troops are expected to arrive at the JTF-East facilities as early as July for the "Proof of Principle" operation. End note.) Dobritoiu said that the MFA lawyers were the ones who argued that an agreement granting access did not address entry and transit as required under the 1994 National Defense Law Number 45, Article 5. It was not their intention to limit U.S. troops in Romania. Dobritoiu added that they were prepared to propose a way forward that would exempt the entrance and stationing of U.S. forces, by negotiating an additional DCA IA on &Entry and Transiting of U.S. Forces within Romania8 that could then be sent to Parliament for approval. He also agreed to press harder on the MFA to raise issues that affect the DCA directly with the U.S. Embassy. Dobritoiu accepted full responsibility for what he called a

&mistake,8 and committed himself and his colleagues to keeping us better informed.

¶6. (C) Polcouns also raised the issue with Acting President (and concurrently Speaker of the Romanian Senate) Nicolae Vacaroiu on the margins of a meeting with the Ambassador May ¶7. Vacaroiu insisted that Romanian laws stipulated specific limitations on the number of foreign military forces present on Romanian soil. He added that Romanian laws provided flexibility in extremis, since the President could ask parliament to lift the cap in an emergency situation "within 48 hours." Vacaroiu said that he had himself inquired about origin of the 3,000-troop "cap" when he saw the draft parliamentary decision; he had heard from MOD experts that the number was derived from the carrying capacity of Romanian military facilities and the number of US military forces expected to participate in exercises in Romania in the next 2-3 years.

¶7. (C) Comment: Although Vacaroiu's argumentation was mostly spurious, the Parliament's decision closely paralleled what had gone forward from the Minister of Defense's office to the Presidency and the Parliament. However, we have so far been unable to determine why the GOR suddenly felt compelled to put a &cap8 on U.S. forces in Romania under the DCA without prior consultation with the U.S. Embassy or other U.S. officials. Dobritoiu and Angelescu acknowledged that a legal discussion between the MFA and MoD had begun as early as last December. Yet it seems reasonable people can differ on whether the 1994 law actually makes it a requirement for Parliament to stipulate the number and duration of foreign troops on Romanian territory. In fact, Iulian Fota, Director of the National Defense College and an expert on Romanian National Defense law tells us that he was &surprised8 by the Parliamentary decision and was not aware of any such legal requirement. Another expert, the Director of National Defense and Security Studies at the University of Bucharest, Ionel Nicu Sava, had essentially the same reaction. The MFA's failure to consult with us, in turn, may reflect the Ministry's general lack of attentiveness to the DCA and the IA negotiations since the successful ratification

of the DCA in 2006; since then, the MOD has been the lead GOR agency on implementation of the DCA and negotiations of the IAs. Although we have repeatedly urged the MFA to be more active in overseeing the IA process, in the end it may be that it would not have mattered. Even if it is still not entirely clear who gave the green light to proceed with a numerical limitation on U.S. forces in last week's Parliamentary maneuver, the &cap8 also clearly had a strong political coloration that the MOD is now trying to find a way to readdress in order to trump the new law's provisions consistent with Romania's DCA requirements. End Comment.  
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